

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

<b>MARCOS F. SANTIAGO,</b>	:	<b>CIVIL NO. 1:14-CV-1313</b>
<b>Petitioner</b>	:	<b>(Judge Rambo)</b>
<b>v.</b>	:	<b>(Magistrate Judge Saporito)</b>
<b>WARDEN EBBERT,</b>	:	
<b>Respondent</b>	:	

## MEMORANDUM

Before the court is a report and recommendation of the magistrate judge (Doc. 18) to whom this matter was referred in which he recommends that the petition for writ of habeas corpus filed pursuant to 28 U.S.C. § 2241 be denied. Petitioner, Marcos F. Santiago, filed objections to the report and recommendation (Doc. 19) to which Respondent filed a response (Doc. 20). For the reasons set forth below, the report and recommendation will be adopted and the petition will be denied.

An incident report was filed against Santiago alleging, in part, that he threatened another with bodily harm. Santiago was found guilty of that offense by the disciplinary hearing officer. The magistrate judge opined that there was some evidence to support that finding. Santiago's objections to the report and recommendation dispute the lack of "some evidence" in the record to support the hearing officer's finding. In his objections, Santiago states that there was no evidence as to whom he allegedly threatened.

On April 12, 2013, Santiago was in the institutional chapel at USP Canaan. Santiago and two other prisoners were discussing a recent murder of a

corrections officer. Religious Services Assistant Sandra Vallee overheard a conversation at which, she later reported, she heard Santiago say, “Fuck, [the deceased corrections officer’s name], he got what he deserved because he did not treat us like humans. I remember he kicked my door, and I yelled at him . . . These officers need to learn or they will get it too. (Doc. 114 at p. 30, emphasis added.) The threat can be interpreted to be against any officer who acted like the deceased officer or any prison official who did not treat a prisoner as they wished to be treated.

This veiled threat against prison officers as a group constitutes “some evidence” to support the conclusion of the hearing officer’s finding that Santiago was guilty of threatening another with bodily harm.

The court will adopt the report and recommendation of Magistrate Judge Saporito. An appropriate order will be issued.

s/Sylvia H. Rambo  
United States District Judge

Dated: August 19, 2015.